IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

ITA No. 476 of 2006

Date of Decision: 11.12.2007

Commissioner of Income Tax, Ludhiana-II

…Appellant

Versus

M/s Big Ben Exports, Ludhiana

…Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Vivek Sethi, Advocate,
for Mr. Sanjiv Bansal, Advocate,
for the appellant-revenue.

Ms. Monika Goel, Advocate,
for the respondent-assessee.

JUDGMENT

M.M. KUMAR, J.

This is revenue's appeal filed under Section 260A of the Income-tax Act, 1961 (for brevity, 'the Act'), challenging order dated 27.9.2005, passed by the Income Tax Appellate Tribunal, Chandigarh Bench 'A', Chandigarh (for brevity, 'the Tribunal'), in I.T.A. No. 667/Chandi/2005, in respect of assessment year 2002-03. It is claimed that following substantial question of law would emerge for determination of this Court:-

> Whether on the facts and in law, the Tribunal was legally right in upholding the order of the CIT (A), who allowed the assessee's claim of deduction of 10% expenses

relating to incentives, miscellaneous income and brokerage from indirect cost of goods exported without appreciating the fact that no such deduction from indirect cost is provided in Section 80HHC(3) of the Income-tax Act, 1961, thereby no deduction was allowable under Section 80HHC of the Income-tax Act, 1961, at all?

After hearing learned counsel for the parties and perusing the record we find that the matter is no longer *res integra* and the same is squarely covered by the judgment of Hon'ble the Supreme Court in the case of **Hero Exports v. Commissioner of Income Tax (Central), Ludhiana (Civil Appeal No. 5315 of 2007, decided on 20.11.2007)**, wherein the issue has been answered against the revenue and in favour of the assessee.

In view of above, the question of law raised in the instant appeal is also answered against the revenue and in favour of the assessee in terms of judgment of Hon'ble the Supreme Court in the case of Hero Exports (supra).

(M.M. KUMAR)
JUDGE

(RAKESH KUMAR JAIN)
JUDGE

December 11, 2007
Pkapoor